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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 000165

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SUBJECT: TURKEY: GOVERNMENT AND OPPOSITION CONFRONT
HEADSCARF BAN

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Classified By: Political Counselor Janice G. Weiner, for
Reasons 1.4 (b, d)

¶1. (C) SUMMARY. Turkey's ban against headscarves at universities may soon be lifted if negotiations succeed between the ruling Justice and Development Party (AKP) and opposition Nationalist Action Party (MHP) on proposed constitutional amendments. PM Erdogan reignited the highly sensitive issue with comments to the press at the UN Alliance of Civilizations Forum in Madrid. Some Turks consider the ban violates freedom of religion, expression, education, and equality; others view it as a bulwark against an Iranian-style Islamic society and a revival of violent civil unrest. The majority of Turks appear well-disposed to a liberalized headscarf regime, but the ban's dismantling will electrify parts of society and the state establishment fearful that AKP is implementing its secret Islamic agenda and eroding secularism. END SUMMARY.

¶2. (SBU) Prime Minister Tayyip Erdogan threw the spotlight on the hotly debated headscarf issue by stating January 16 there was no need to wait for a constitutional overhaul, expected to take at least a year, to remove the ban: "We will sit down together and solve it with just one sentence." MHP took Erdogan at his word; in a January 17 statement that first criticized Erdogan for not seeking consensus, MHP chairman Devlet Bahceli proposed amending Article 10 to clarify that public services, including higher education, must be provided equally to all. Bahceli maintained this would distinguish between public servants who provide services (no headscarf permitted) and those, such as university students, who receive them. He noted that everyone who uses public services would benefit from the proposed amendment. The ban, based on legal decisions not legislation, has been unevenly enforced since 1997.

¶3. (SBU) Senior officials from both parties agreed in principle January 24 to amend the constitution to end the ban; negotiations on how best to do that continue. Stating that amending Article 10 alone would not be sufficient, Erdogan stressed that Article 13, limiting restrictions on fundamental rights and freedoms, and Article 42, guaranteeing the right to education, would also need amending. While

President Gul spoke out in favor of lifting the ban, Parliament Speaker (and former Justice Committee Chairman) Koksal Toptan and constitutional law experts argued against addressing the issue in the constitution. Adding to the fracas, Turkey's head of religious affairs stated there was no doubt Muslim women should cover their heads, based on unalterable Islamic rules dating back centuries. Whether or not women abide by these rules is up to them, he noted.

¶4. (C) Despite AKP and MHP assurances, opponents, including some AKP supporters, raise the slippery slope spectre: soon public workers in courts, parliament and primary and secondary schools will be sporting the headscarf, which many see as a political symbol inconsistent with a secular state. Indeed, AKP Konya deputy and Constitutional Committee member Husnu Tuna was quote January 28 as saying, "Having liberalized the regulations in universities, we will work to remove also the headscarf restrictions for civil servants." (AKP's parliamentary group subsequently initiated an investigation against him.) Republican People's Party (CHP) Chairman Deniz Baykal and pro-Kurdish Democratic Society Party (DTP) member Ahmet Turk separately criticized Erdogan and others for exploiting the issue for political gain. Baykal, who called the headscarf the symbol of political Islam, warned lifting the ban will pull Turkey towards a religious state and claimed the recent proposals expose AKP's and Erdogan's "secret agenda." While DTP favors lifting the ban, DTP MP Hasip Kaplan argued for resolving the problem through legislation rather than a constitutional amendment.

¶5. (C) Establishment institutions also reacted forcefully. The High Court of Appeals (Yargitay) Chief Prosecutor warned that efforts to remove the ban would lead to polarization and confrontation in society. The prosecutor, who has authority to initiate proceedings to ban political parties, said parties cannot attempt to change the fundamental principles of the Republic, and warned that efforts to do so would have

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consequences. Turkey's highest administrative court, the Council of State (Danistay), issued a warning January 18 that lifting the ban would contradict earlier court decisions and could even undermine "social peace." The military has not yet commented publicly, although some consider the high courts' remarks to reflect the like-minded military's views.

¶6. (C) Hard-core secularists believe the Islamist noose is tightening around the Republic's neck. Since last spring's presidential election was derailed by massive public rallies, military pressure, and a dubious Constitutional Court decision, which in turn necessitated early elections, AKP has acquired a much firmer grip on state institutions. The elections returned AKP to single party government with an impressive 46.6 percent of the popular vote, clearing the path for AKP to elect its candidate, Abdullah Gul, as president. Gul appointed a new chairman of the influential High Education Council (YOK), who expressed flexibility on the ban, and will be naming three new YOK members soon (two due to term expirations, and one after the incumbent resigned in protest). As primary enforcers of the ban, YOK's position on the issue is key; YOK member Halis Ayhan argued the headscarf issue can be solved within YOK by professors and teachers.

¶7. (C) COMMENT. MHP's willingness to join forces to lift the ban was a shrewd move on Bahceli's part, deflating AKP's credit on an issue important to both parties' conservative voters and -- if they succeed in 2008 -- potentially diluting its potency in the 2009 local elections. In Turkey, what is said isn't as important as who says it, and no one questions far-right MHP's commitment to the Republic's principles. As Bahceli said, secularism does not mean atheism and religion does not automatically mean fundamentalism. One commentator predicted secularists' greatest fear is that the ban will be lifted and nothing will happen. But the risk of social conflict or state intervention increases as politicians push

the envelope. Some powerful supporters of the ban will do what they can to increase polarization, as with last spring's Republic Rallies, which both reflected and fueled fears of an Islamic encroachment on Turkey's secular polity. Together AKP, with 340 parliamentary seats, and MHP, with 70 seats, can easily meet the 367-member quorum requirement and the 330 votes needed to adopt an amendment package. Over the longer term, even constitutional change will not end the entrenched siege mentality that compels the judiciary and academe to use all available tools to combat perceived threats to the Republic's secular integrity. Whatever the extent of the risk, the fear of Turkey's slide into an Islamic state runs deep. END COMMENT.

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